

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ANGELO et al.,

Plaintiffs,

v.

GEMELLI CONSTRUCTION,

Defendant.

2:08-CV-0124 (WJM)

ORDER

HON. WILLIAM J. MARTINI

This matter comes before the Court on Plaintiffs motion to enforce a consent judgment against Defendant Gemelli Construction. In May 2008, the parties executed a consent judgment by Gemelli Construction and a personal guarantee executed by Gemelli's principal, Sal Benanti as a condition of the settlement agreement entered into by the parties in May 2008. Gemelli breached the settlement agreement by failing to make required installment payments and is currently in default.

The proper forum to enforce a settlement agreement is a state court, unless there exists some independent basis for federal jurisdiction. *See Kokkonen v. Guardian Life Ins. Co. Of Am.*, 511 U.S. 378, 382, 114 S. Ct. 1673, 128 L.Ed. 2d 391 (1994). A court can retain jurisdiction to enforce a settlement provision by a separate provision or by incorporating the terms of the settlement agreement into an order. *Id.* at 381. However, a court does not have jurisdiction over a settlement agreement just because that agreement settled a federal cause of action. *See Nelson v. Pennsylvania*, 125 Fed. Appx. 380, 382 (3d Cir. 2005). As such, an action to enforce the settlement then becomes a separate contract dispute, based on the

agreement. *Id.*

In the present matter, this case does not require the interpretation of a specific federal statutory provision and no other independent basis for federal jurisdiction exists. It is a breach of contract claim for under \$75,000. Moreover, the Court did not retain jurisdiction in its Notice of Dismissal issued on June 23, 2008. For the foregoing reasons, and for good cause shown,

IT IS on this 5th day of December 2008, hereby

ORDERED that Plaintiffs motion to enforce the consent agreement is **DENIED**.

s/William J. Martini
William J. Martini, U.S.D.J.